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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/767,834	01/29/2004	Paul A. Mueller	FFRZ 2 00237	5638

27885 7590 06/26/2006

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EXAMINER
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HOGE, GARY CHAPMAN

ART UNIT	PAPER NUMBER
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3611

DATE MAILED: 06/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/767,834	<b>Applicant(s)</b> MUELLER ET AL.	
	<b>Examiner</b> Gary C. Hoge	<b>Art Unit</b> 3611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 11 April 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 7-29, 35-39 and 43-53 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 47-53 is/are allowed.
- 6) ☒ Claim(s) 7, 9-13, 16-29, 35, 38, 39 and 43-46 is/are rejected.
- 7) ☒ Claim(s) 8, 14, 15, 36 and 37 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>1/29/04</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 16-27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 16, line 7, it is not understood which lower end is meant by “said lower end,” since two distinct lower ends have been recited.

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 7 and 9-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Gebka et al. (5,394,632).

See Fig. 2. Gebka discloses a label holder including a body panel **12** having a front surface, a rear surface, an upper end, and a lower end; a first clip member **14** extending rearwardly away from the rear surface; a second clip member **16** extending rearwardly away from the rear surface, the second clip member being spaced from the first clip member, wherein the second clip member includes a stem (analogous to **16a'** in Fig. 4); an upwardly extending arm (analogous to **16'** in Fig. 4) located adjacent a distal end of the stem; and a downwardly

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extending arm (analogous to **16b'** in Fig. 4) extending from the stem and disposed adjacent to the distal end of the stem, wherein the downwardly extending arm is disposed at an acute angle in relation to the stem (as can be seen in Fig. 2); wherein the first and second clip members cooperate to selectively hold a projecting portion of an associated shelf **18**; and a cover panel **24** connected to the body panel **12**, the cover panel having a front surface, a rear surface, an upper end, and a lower end.

Regarding claim 13, the upwardly extending arm includes an end. The recitation that the end is "for contacting . . ." is merely a statement of intended use.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claim 16-23 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brinkman (5,899,011) in view of Kump et al. (6,026,603) and Greenburger (4,373,693).

Brinkman discloses a holder having a cover panel 26 with a front surface, a rear surface, an upper end, and a lower end; a body panel 14 having a front surface, a rear surface, an upper end, and a lower end; a clip 70 having a first portion secured to the rear surface of the body panel proximal to the lower end, the clip extending rearwardly away from the body panel rear surface; and a hinge connecting the lower end of the cover panel with the lower end of the body panel. However, Brinkman does not disclose a first sign holder and a second sign holder both mounted to the cover panel. Kump teaches that it was known in the art to attach a sign holder to the cover panel of a label holder. It would have been obvious to one having ordinary skill in the art at the time the invention was made to attach a sign holder to the cover panel disclosed by Brinkman (modifying the top edge of the cover panel in the process), as taught by Kump, in order to display a large, attention-getting sign on the holder. However, Brinkman, as modified, does not disclose a second sign holder. Greenberger teaches that it was known to attach a sign holder to a card-shaped object (of the type that could be mounted to the holder taught by Kump). It would have been obvious to one having ordinary skill in the art at the time the invention was made to attach a sign holder of the type taught by Greenberger to the label holder disclosed by Brinkman, as modified, in order to attach a sign that projects away from the label holder, thereby drawing even more attention to the label holder.

Regarding claim 20, the lower-most fin on the first sign holder constitutes a ridge.

8. Claims 24 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brinkman (5,899,011) in view of Kump et al. (6,026,603) and Greenburger (4,373,693) as applied to claim 17 above, and further in view of Gray (D453,798).

Brinkman, as modified, discloses the invention substantially as claimed, as set forth above. However, the clip structure disclosed by Greenburger includes a single protrusion that interacts with a single recess, rather than a series of opposing flexible fins. Gray teaches that a series of opposing flexible fins was a functionally equivalent support structure known in the art. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a series of opposing flexible fins, as taught by Gray, in the second sign holder as a matter of choice in design and in order to grip a plurality of discrete locations on the sign and thereby grip the sign more securely.

9. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brinkman (5,899,011) in view of Kump et al. (6,026,603), Greenburger (4,373,693) and Gray (D453,798), as applied to claim 24 above, and further in view of Thompson (4,557,064).

Brinkman, as modified, discloses the invention substantially as claimed, as set forth above. However, the reference to Gray is a design patent, and therefore it is not known whether the fins are made of a more flexible material than the two side walls. However, Thompson teaches (col. 2, lines 64-68) that it was known in the art to make such fins softer than the side walls to which they are attached. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the fins disclosed by Gray of a softer material than the side walls to which they are attached, as taught by Thompson, in order that they may bend with sufficient ease to grasp a sign placed therein.

10. Claims 28, 29, 35, 38, 39 and 44-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gebka et al. (5,394,632) in view of Kump et al. (6,026,603).

See Fig. 2. Gebka discloses a label holder including a body panel **12** having a front surface, a rear surface, an upper end, and a lower end; a first clip member **14** extending rearwardly away from the rear surface; a second clip member **16** extending rearwardly away from the rear surface, the second clip member being spaced from the first clip member, wherein the second clip member includes a stem (analogous to **16a'** in Fig. 4); an upwardly extending arm (analogous to **16'** in Fig. 4) located adjacent a distal end of the stem; and a downwardly extending arm (analogous to **16b'** in Fig. 4) extending from the stem and disposed adjacent to the distal end of the stem, wherein the downwardly extending arm is disposed at an acute angle in relation to the stem (as can be seen in Fig. 2); and a cover panel **24** connected to the body panel **12**, the cover panel having a front surface, a rear surface, an upper end, and a lower end. However, Gebka does not disclose a sign gripping member on the cover panel. Kump teaches that it was known in the art to attach a sign holder to the cover panel of a label holder. It would have been obvious to one having ordinary skill in the art at the time the invention was made to attach a sign holder to the cover panel disclosed by Brinkman (modifying the top edge of the cover panel in the process), as taught by Kump, in order to display a large, attention-getting sign on the holder.

Regarding claim 35, wherein the first and second clip members cooperate to selectively hold a projecting portion of an associated shelf **18**.

Regarding claim 46, the lower-most fin on the first sign holder constitutes a ridge.

11. Claim 43 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gebka et al. (5,394,632) in view of Kump et al. (6,026,603), as applied to claim 29, above, and further in view of Greenburger (4,373,693).

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Gebka, as modified, discloses the invention substantially as claimed, as set forth above. However, Gebka, as modified, does not disclose a second sign holder. Greenberger teaches that it was known to attach a sign holder to a card-shaped object (of the type that could be mounted to the holder taught by Kump). It would have been obvious to one having ordinary skill in the art at the time the invention was made to attach a sign holder of the type taught by Greenberger to the label holder disclosed by Brinkman, as modified, in order to attach a sign that projects away from the label holder, thereby drawing even more attention to the label holder.

***Allowable Subject Matter***

12. Claims 8, 14, 15, 36 and 37 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
13. Claims 47-53 are allowed.

***Response to Arguments***

14. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

15. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after



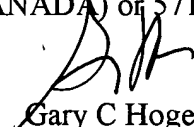
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the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary C. Hoge whose telephone number is (571) 272-6645. The examiner can normally be reached on 5-4-9.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on (571) 272-6651. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Gary C Hoge  
Primary Examiner  
Art Unit 3611

gch